



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

June 3, 2020

**VIA ECF**

Honorable John G. Koeltl  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Application granted.  
SO ORDERED.

New York, NY  
June 3, 2020

/s/ John G. Koeltl

John G. Koeltl  
U.S.D.J.

**Re: *Martinez Roman v. Decker, et al.*, 20 Civ. 3752 (JGK)**

Dear Judge Koeltl:

This Office represents the government in the above-referenced immigration habeas matter. The government's response to the petition is due today. *See* ECF No. 7. I write respectfully to request permission to file under seal the petitioner's medical records from the Orange County Jail. Consistent with Section 6 of this Court's Individual Rules, these documents will be filed under seal on ECF and electronically related to this letter motion.

The government respectfully submits that sealing is appropriate notwithstanding the presumption of access discussed by the Second Circuit in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), in light of the privacy interests of individuals in their medical records. *See, e.g., Barnwell v. FCI Danbury*, No. 3:10-CV-01301 (DJS), 2011 WL 5330215, at \*5 (D. Conn. Nov. 3, 2011) (noting a rebuttable presumption of openness of court filings, but granting motion to seal in light of federal law's treatment of such records as confidential pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. L. 104-191 (1996)). Courts in this District have permitted the sealing of medical records, even if specific details relating to the individual's health appear on the record. *See, e.g., United States v. Needham*, \_\_\_ F. Supp. 3d \_\_\_, No. 06 Cr. 911 (WHP), 2020 WL 2512105, at \*1 n.1 (S.D.N.Y. May 15, 2020); *United States v. Estevez*, No. 18 Cr. 669 (JPO), 2020 WL 1911207, at \*1 (S.D.N.Y. Apr. 20, 2020); *United States v. Ebberts*, \_\_\_ F. Supp. 3d \_\_\_, No. 02 Cr. 1144 (VEC), 2020 WL 91399, at \*1 n.1 (S.D.N.Y. Jan. 8, 2020) (noting defendant's waiver through "extensively citing to his medical records and medical history in his own motion, in correspondence with the Court, and in open Court during oral argument on his motion").

Petitioner's counsel does not oppose this request.

I thank the Court for its consideration of this request.

Respectfully submitted,

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United States Attorney for the  
Southern District of New York

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cc: Counsel of Record (via ECF)